

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

ALAN WALTER,

Plaintiff,

v.

Civil Case No.:

1:19-cv-01583-WMS

CSX TRANSPORTATION, INC.,

Defendant.

**AFFIDAVIT IN OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT**

PHILIP M. GULISANO, being duly sworn, deposes and says:

1. I am an attorney admitted to the courts of the State of New York and the United States District Court for the Western District of New York therein. I am a partner in the firm Nash Connors, P.C., attorneys for defendant CSX Transportation, Inc. ("CSX") in this action.

2. I make this affidavit in opposition to plaintiff's motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure.¹

3. CSX's Opposing Statement Pursuant to Local Rule 56(a)(2) and Counterstatement of Facts is submitted with this affirmation in opposition to plaintiff's motion and incorporated into this Affidavit in its entirety.

3. CSX has submitted the following exhibits in support of this Affidavit:

- **Exhibit A** – Three Photographs of Lowboy Trailer taken by Plaintiff; and
- **Exhibit B** – Photograph Marked by Plaintiff with "X" to Show Location Where Plaintiff

Stepped in Opening in Deck of Lowboy Trailer.

¹ The defendant incorporates in its opposition by reference defendant's summary judgment motion dismissing plaintiff's Labor Law §§ 200, 241(1), and 241(6) claims filed on September 15, 2021 and the arguments and exhibits referenced therein.

4. The legal bases for the relief sought herein are set forth in the accompanying Memorandum of Law.

Dated: October 13, 2021

Respectfully submitted,

NASH CONNORS, P.C.

/s/ Philip M. Gulisano

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